

# **EXHIBIT B**

**From:** Seth Carson  
**Sent:** Wednesday, October 21, 2020 6:28:24 PM  
**To:** Benson, Leigh Ann  
**Cc:** Walton, David;Cavalier, Jonathan;Bill Rieser;Sidney Gold  
**Subject:** Re: Barbounis v. MEF--extension

**\*\*EXTERNAL SENDER\*\***

Your letter is not OK. I am not going to consent to the extension - I will argue against it unless your client represents honestly to the court that the matter of Caitriona Brady was dismissed pursuant to an agreement by the parties to settle the case for \$15,000.

If you do not agree to this language, then file a motion and we can argue it.

I don't even need an extention. I believe that Judge Wolson will make sure that the 6 deps I need get scheduled.

Seth D. Carson, Esquire  
Derek Smith Law Group, PLLC  
1835 Market Street  
Suite 2950  
Philadelphia, PA 19103  
Phone: 215.391.4790  
Facsimile: 215.893.5288  
Direct: 484.678.2210  
Email: Seth@DerekSmithLaw.com

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**From:** Benson, Leigh Ann <LBenson@cozen.com>  
**Sent:** Wednesday, October 21, 2020 5:17 PM  
**To:** Seth Carson <seth@dereksmithlaw.com>  
**Cc:** Walton, David <DWalton@cozen.com>; Cavalier, Jonathan <JCavalier@cozen.com>; Bill Rieser <brieser@discrimlaw.net>; Sidney Gold <sgold@discrimlaw.net>  
**Subject:** RE: Barbounis v. MEF--extension

Seth, this my third and final attempt. Please advise if we have your permission to file the request with Cozen's revisions which we sent at 9:30am today.



**Leigh Ann Benson**  
**Associate | Cozen O'Connor**  
One Liberty Place, 1650 Market Street Suite 2800 | Philadelphia, PA 19103  
P: 215-665-4708 F: 215-701-2002  
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**From:** Benson, Leigh Ann  
**Sent:** Wednesday, October 21, 2020 1:48 PM  
**To:** 'Seth Carson' <seth@dereksmithlaw.com>  
**Cc:** Walton, David <DWalton@cozen.com>; Cavalier, Jonathan <JCavalier@cozen.com>; 'Bill Rieser' <brieser@discrimlaw.net>; 'Sidney Gold' <sgold@discrimlaw.net>  
**Subject:** RE: Barbounis v. MEF--extension  
**Importance:** High

Seth, please advise if we have your permission to submit the letter to Judge Wolson. We must submit this today.



**Leigh Ann Benson**  
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**From:** Benson, Leigh Ann  
**Sent:** Wednesday, October 21, 2020 9:26 AM  
**To:** 'Seth Carson' <[seth@dereksmithlaw.com](mailto:seth@dereksmithlaw.com)>  
**Cc:** Walton, David <[DWalton@cozen.com](mailto:DWalton@cozen.com)>; Cavalier, Jonathan <[JCavalier@cozen.com](mailto:JCavalier@cozen.com)>; Bill Rieser <[brieser@discrimlaw.net](mailto:brieser@discrimlaw.net)>; Sidney Gold <[sgold@discrimlaw.net](mailto:sgold@discrimlaw.net)>  
**Subject:** RE: Barbounis v. MEF--extension  
**Importance:** High

Thanks, Seth. Please see the attached revised letter with Cozen's changes in red. Your other changes we accepted. ***Please let us know if we have permission to submit this.*** As you know, we need to get this in today per Judge Wolson's policies and procedures.



**Leigh Ann Benson**  
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**From:** Seth Carson <[seth@dereksmithlaw.com](mailto:seth@dereksmithlaw.com)>  
**Sent:** Tuesday, October 20, 2020 6:01 PM  
**To:** Benson, Leigh Ann <[LBenson@cozen.com](mailto:LBenson@cozen.com)>  
**Cc:** Walton, David <[DWalton@cozen.com](mailto:DWalton@cozen.com)>; Cavalier, Jonathan <[JCavalier@cozen.com](mailto:JCavalier@cozen.com)>; Bill Rieser <[brieser@discrimlaw.net](mailto:brieser@discrimlaw.net)>; Sidney Gold <[sgold@discrimlaw.net](mailto:sgold@discrimlaw.net)>  
**Subject:** Re: Barbounis v. MEF--extension

**\*\*EXTERNAL SENDER\*\***

Attached is the letter with my input.

You have my permission to send it as is.

Seth D. Carson, Esquire  
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**From:** Benson, Leigh Ann <[LBenson@cozen.com](mailto:LBenson@cozen.com)>  
**Sent:** Tuesday, October 20, 2020 5:15 PM  
**To:** Seth Carson <[seth@dereksmithlaw.com](mailto:seth@dereksmithlaw.com)>  
**Cc:** Walton, David <[DWalton@cozen.com](mailto:DWalton@cozen.com)>; Cavalier, Jonathan <[JCavalier@cozen.com](mailto:JCavalier@cozen.com)>; Bill Rieser <[brieser@discrimlaw.net](mailto:brieser@discrimlaw.net)>; Sidney Gold <[sgold@discrimlaw.net](mailto:sgold@discrimlaw.net)>  
**Subject:** Barbounis v. MEF--extension

Seth, as mentioned on our call, attached for your review is a draft joint request for an extension. Please let us know if you have any changes or revisions.

Leigh Ann



Leigh Ann Benson

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October 21, 2020

VIA E-MAIL

(CHAMBERS\_OF\_JUDGE\_WOLSON@PAED.USCOURTS.GOV)

**David J. Walton**

Direct Phone 215-665-5547

Direct Fax 215-701-2110

dwalton@cozen.com

Honorable Joshua D. Wolson  
James A. Byrne U.S. Courthouse  
601 Market Street  
Philadelphia, PA 19106

**Re: Barbounis v. Middle East Forum, et al., 2:19-cv-05030**

Your Honor,

The Parties have conferred and are jointly requesting a ninety-day extension of the current scheduling order in the matter of *Ms. Lisa Barbounis v. Middle East Forum, et al.*, No. 2:19-cv-05030. Due to the combination of numerous factors, good cause justifies further extension to afford the parties additional time to complete discovery, including discovery related to Defendants' recently filed counterclaims.

The current discovery deadline is Wednesday, October 28, 2020. Extending the discovery deadline, and other subsequent deadlines set forth in the operative scheduling order, would have only a nominal impact on the action's progress given that civil jury trials are currently on hold during the Covid-19 pandemic.

Counsel is mindful that in Your order dated October 14, 2020, you noted that You did not view the order granting MEF's Motion to Compel as a basis for an extension of upcoming deadlines. (ECF No. 61.) Counsel understands. The relief specifically sought in MEF's Motion to compel was an order requiring Ms. Barbounis to comply with her discovery obligations. Counsel for all Parties has conferred and agrees, however, that factors beyond those set forth in MEF's Motion, as outlined in this correspondence, establish that there is good cause warranting an extension.

**Related Actions.** As Your Honor is aware, plaintiff Ms. Barbounis is one of five women who initiated employment actions against their former employer, defendant the Middle East Forum ("MEF").<sup>1</sup> **Four of the five plaintiffs, including Ms. Barbounis, retained Seth Carson, Esq. to represent them. Mr. Carson's position is that since** the initiation of the initial actions, one has been voluntarily dismissed pursuant to a settlement agreement and a 41.1(b) dismissal, but the others remain in on-going litigation. Mr. Carson is representing three of the remaining plaintiffs. MEF's counsel, myself and my colleagues Jon Cavalier, Esq. and Leigh Ann Benson, Esq.,

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<sup>1</sup> Ms. Patricia McNulty's action, *McNulty v. Middle East Forum, et al.*, No. 2:19-cv-05029, is pending before the Honorable Anita B. Brody. Ms. Marnie O'Brien's action, *O'Brien v. Middle East Forum, et al.*, No. 2:19-cv-06078, is pending before the Honorable John M. Gallagher. Ms. Caitriona Brady's action was before the Honorable Mark A. Kearney at 2:19-cv-05082. Ms. Delaney Yonchek voluntarily dismissed the action she filed against MEF, *Yonchek v. Middle East Forum, et al.*, 2:19-cv-05083, shortly after MEF filed a motion to dismiss in December 2019.

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 October 21, 2020  
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currently represent MEF in the actions brought by Ms. Barbounis, Ms. McNulty, and Ms. Brady. Mr. Roman's counsel, Sidney L. Gold, Esq., and William Rieser, Esq., are representing Mr. Roman in the actions brought by Ms. Barbounis and Ms. McNulty. Together, the Parties' and their counsel have been conducting extensive discovery over the course of the last ten months. Furthermore, Judge Gallagher and Judge Brody, presiding over the actions initiated by Ms. O'Brien and Ms. McNulty, respectively, have both granted extensions. For both those actions, fact discovery is currently set to close in late-December 2020 and late-January 2021.

Aside from the related employment actions pending against Defendants, MEF and Ms. Barbounis are involved in another matter pending before Judge Sanchez, *Middle East Forum v. Ms. Barbounis*, No. 2:19-cv-05697 (the "Trade Secrets Action"). MEF alleges that Ms. Barbounis improperly acquired and used MEF's trade secrets and confidential information.

**Outstanding Discovery.** Given MEF's recent Motion to Compel (ECF No. 59), which Your Honor granted on October 14, 2020 (ECF No. 61), You are aware that to-date Ms. Barbounis has not complied with her discovery obligations under the Federal Rules. You have ordered Ms. Barbounis to "respond to document requests and produce responsive documents, without objection, by October 21, 2020." (ECF No. 61.) Yesterday, MEF learned that Ms. Barbounis will not be able to comply with this Order. Documents will not be produced until the end of this week—after the October 21<sup>st</sup> deadline—and that production will not be complete. Mr. Carson's position is that this is due to the e-discovery vendor, Cornerstone, and their ability to identify and produce responsive documents. A joint call with MEF counsel, Lisa Barbounis' counsel, and Cornerstone was held yesterday and through Cornerstone Ms. Barbounis will produce documents from both her electronic devices, all her social media accounts, her email accounts, and her cloud-based storage accounts. This production is expected to be several hundred thousand documents. Attorney, Seth Carson is working on this case without co-counsel or paralegal and has had to review these documents on his own.

Accordingly, what was not outlined in detail in MEF's Motion to Compel was the volume of documents at issue. In the related Trades Secret Action, Ms. Barbounis was ordered to produce information from her personal phones. Mr. Carson indicated that he would produce this material in this Action before Your Honor as part of his document production. There were many delays in the production of these documents due to personal, private information (false positives) being returned based on the search terms used. For months, Mr. Carson has been working with a third-party vendor, Cornerstone, to image and collect documents from Ms. Barbounis' cell phones, social media accounts, cloud-based storage accounts and email accounts, so that the documents could be produced. Frankly, MEF did not file its Motion to Compel sooner because we believed that Your Honor would ask us to wait for Mr. Carson to comply with Judge Sanchez's Order. In other words, we didn't think that Your Honor would issue an Order that would conflict with Judge Sanchez's previously entered Order.

On September 23, 2020, Mr. Carson, by email, estimated that the production would include 250,000 documents, if not more. Mr. Carson confirmed that MEF would have access to the documents Cornerstone retrieved. The following day, Mr. Carson revoked that permission arguing that the vendor collected non-responsive documents in the form of personal, private images that were false positives that had no relevance to the instant matter. Thus, the documents could not be made available to MEF until ~~the conference call was held today and~~ these issues were resolved. These images apparently included intimate pictures of Ms. Barbounis and her children, which we have no desire to possess.

Honorable Joshua D. Wolson  
October 21, 2020  
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Now, Defendants are bracing themselves for a massive document production that will come just days before the current discovery deadline. This production also will not be complete as certain multimedia files will not be included in this initial production and will need to be produced at a later date following Mr. Carson's review. Again, Mr. Carson will be required to review these tens of thousands of documents single-handedly. This was confirmed on the call this afternoon with Mr. Carson, Ms. Benson, and Mr. Cavalier and the third-party vendor, Cornerstone. Cornerstone also confirmed that the soonest it could hope to have the document production to Defendants' counsel would be the end of this week.

The Parties recount this to make clear the struggles that have gone into the production process here, the delays suffered, and the volume of documents that are yet-to-be-produced. MEF would be severely prejudiced if it were forced to review the production of 250,000 between the end of this week--presumably October 23<sup>rd</sup> if the production is available by the end of the workweek, which is two days after the date Ms. Barbounis has been ordered to comply--and the fact discovery deadline of October 28<sup>th</sup>. MEF has delayed deposing Ms. Barbounis, and other relevant witnesses, given that it has no documents.

Furthermore, MEF has been making productions on a rolling basis since May 2020. It would be severely prejudicial to MEF if Ms. Barbounis' counsel has had five-plus months to review productions totaling a fraction of the size of her anticipated production, but MEF has less than a week to review Ms. Barbounis' production. Both parties should be entitled to ample time to review productions prior to taking depositions.

**Defendants' Counterclaims.** Further discovery is also necessary to address the recently added counterclaims. Your Honor granted MEF leave to file counterclaims against Ms. Barbounis in light of evidence MEF uncovered through its investigation of Ms. Barbounis' claims against it. The pleadings just closed last week with Ms. Barbounis' filing of an amended answer with affirmative defenses on October 8, 2020. (ECF No. 60.) Thus, under the current scheduling order, the Parties would have a mere twenty (20) days to complete discovery on highly contentious claims against Ms. Barbounis. It would severely prejudice Ms. Barbounis if she were permitted only twenty (20) days from the date her Answer was due to investigate Defendants' Counterclaims.

**Covid-19 Delays.** The Parties have continued actively pursuing discovery during the Covid-19 pandemic and related shut-downs and will continue do to so including taking depositions by Zoom. However, because there is currently a hold on all civil jury trials, with no end-date in sight, granting an extension of the scheduling order would not have an adverse impact on a trial date.

For these reasons, Counsel has conferred and agrees that a ninety-day extension will best serve the parties as they continue to pursue both discovery and discussion regarding potential resolution of this action.

Respectfully,

COZEN O'CONNOR

By: David J. Walton



Honorable Joshua D. Wolson  
October 21, 2020  
Page 4

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DJW:lab

CC: Seth Carson, Esq., Sidney L. Gold, Esq., and William Rieser, Esq.